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MEMORANDUM ENDORSEMENT

July 13, 2020

VIA ECF

The Honorable Gabriel W. Gorenstein
United States District Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Calcano v. Jonathan Adler Enterprises, LLC
Case No.: 1:19-cv-11385-LTS-GWG

Dear Judge Gorenstein,


The undersigned represents Evelina Calcagno, on behalf of herself and all other persons similarly situated ("Plaintiff"), in the above-referenced action against Jonathan Adler Enterprises, LLC, ("Defendant"). We write, with Defendant's consent, to respectfully request a stay of the proceedings in this action, pending the ruling of the Second Circuit Court of Appeals' review of rulings on similar motions to dismiss.

By way of brief background, within the last month, courts in the Southern District of New York have granted motions to dismiss other gift card cases involving similar complaints. (*See Yovanny Dominguez v. Banana Republic, LLC, U.S.D.C. S.D.N.Y. Case No. 1:19-cv-10171 (GHW)* ("*Banana Republic*"); *James Murphy v. Kohl's Department Stores, Inc., U.S.D.C. S.D.N.Y. Case No. 1:19-09921 (GHW)* ("*Kohl's*"). Plaintiffs in those cases exercised their right to appeal from those rulings, and the Second Circuit has recently ordered an expedited briefing schedule in certain of those cases, indicating some intention that the Second Circuit intends to address the same issues at the core of the pending motion to dismiss. Although we understand that the plaintiffs/appellants in those cases intend to ask the Second Circuit to consolidate those appeals and withdraw the expedited briefing schedules, the Second Circuit's intent to rule on these same issues is inevitable and possibly imminent.

As a result, Plaintiff seeks, with Defendant's consent, a comprehensive stay of the proceedings in this action pending the Second Circuit's rulings on the appeals. A stay would conserve judicial resources and permit this Court to proceed at a future date with the benefit of guidance from the Court of Appeals.

Thank you for your anticipated cooperation in this matter. Should the Court have any questions, please do not hesitate to contact the undersigned attorney.

The joint application for a stay pending a decision by the Second Circuit in any of the cases discussed in this letter is granted. The parties shall report to the Court within 14 days of the issuance of a decision.


GABRIEL W. GORENSTEIN
United States Magistrate Judge
July 13, 2020

Respectfully submitted,

/s/ Darryn G. Solotoff, Esq.

Darryn G. Solotoff, Esq.